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Motorola Mobility, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE GOOGLE PLAY STORE ANTITRUST
LITIGATION

Civil Action No. 3:21-MD-02981-JD

**NON-PARTY MOTOROLA MOBILITY,
LLC'S MOTION TO SEAL**

1 Non-Party Motorola Mobility, LLC (“Motorola”) hereby moves to seal limited financial
 2 information that is contained within certain deposition testimony and the accompanying exhibit,
 3 set to be played in open court in the trial in this matter.¹

4 1. Motorola understands that portions of the deposition testimony of Eric Christensen,
 5 taken on July 18, 2022, will be played in open court on Wednesday, November 29, 2023. Motorola
 6 also understands that Plaintiff Epic Games will seek to enter into evidence Motorola’s Mobile
 7 Incentive Agreement with Google LLC (“MIA”), initially dated February 1, 2020, which has been
 8 renewed and is currently still in effect as amended. Although the exact figure that Plaintiff seeks
 9 to reveal has been amended somewhat, it is substantially similar to the comparable term in the
 10 current amendment.

11 2. Motorola seeks to seal only the confidential, proprietary financial terms of the MIA
 12 with Google. Specifically, the term that Motorola seeks to seal appears at lines 71:14 and 72:7 of
 13 Mr. Christensen’s deposition. Motorola seeks to seal both the testimony revealing the financial
 14 term and the accompanying portion of the exhibit that will show simultaneously on the screen.

15 3. This Court applies the “compelling reasons” standard in determining whether
 16 sealing is appropriate at trial. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th
 17 Cir. 2006) (“[T]he resolution of a dispute on the merits, whether by trial or summary judgment, is
 18 at the heart of the interest in ensuring the ‘public’s understanding of the judicial process and of
 19 significant public events.’ ... Thus, ‘compelling reasons’ must be shown[.]”).

20 4. “Compelling reasons” exist to permit the Court to seal the limited information that
 21 Motorola seeks to seal as it would reveal financial terms of a current contract. *FTC v. Qualcomm*
 22 *Inc.*, No. 17-CV-220-LHK, 2019 WL 95922, at *3 (N.D. Cal. Jan. 3, 2019) (“Thus, to the extent
 23 that the instant motion seeks to seal information that, if published, may harm Qualcomm’s or third
 24 parties’ competitive standing and divulges terms of confidential contracts, contract negotiations,
 25 or trade secrets, the Court agrees with the parties that compelling reasons exist to seal this
 26 information”); *Am. Auto. Ass’n of N. California, Nevada & Utah v. Gen. Motors LLC*, No. 17-CV-

27 ¹ Motorola will file an accompanying declaration tomorrow morning.

03874-LHK, 2019 WL 1206748, at *2 (N.D. Cal. Mar. 14, 2019) (“The Court agrees that compelling reasons exist to seal” information regarding “contracts between either AAA or GM and third parties, and information provided by third parties[.]”).

5. Although the initial MIA expired on January 31, 2021, the parties have renewed the agreement and thus it is a current contract. Plaintiff seeks to introduce the financial terms of the MIA into evidence, including the payment amount Motorola negotiated with Google. That payment amount is heavily negotiated and would be highly valuable information to Motorola’s competitors, which include other non-parties to this litigation.

Deposition Testimony/Document	Portion to be Sealed	Reason for Sealing
Deposition Testimony of Eric Christensen dated July 18, 2022	71:14-72:7	Contains the confidential, proprietary financial terms of Motorola’s Mobile Incentive Agreement with Google LLC (“MIA”) with Google
Motorola’s Mobile Incentive Agreement with Google LLC (“MIA”), initially dated February 1, 2020, which has been renewed and is currently still in effect	The confidential, proprietary financial terms of the MIA with Google, which appears at lines 71:14 and 72:7 of Mr. Christensen’s deposition	Contains the confidential, proprietary financial terms of the MIA with Google

WHEREFORE, non-party Motorola Mobility, LLC respectfully requests that this Court seal the dollar figure revealed at lines 71:14 and 72:7 of Mr. Christensen’s deposition and the accompanying exhibit.

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2 Dated: November 27, 2023

McDERMOTT WILL & EMERY LLP

3 By: /s/ Michelle Lowery
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Counsel for Non-Party Motorola
Mobility, LLC

CERTIFICATE OF SERVICE

I certify that on November 27, 2023, I served a copy of the foregoing on all counsel of record via the CM/ECF electronic filing system.

/s/ Michelle Lowery
Michelle Lowery